

REDEVELOPMENT AGENCY OF THE
CITY OF LONG BEACH

PERCENT FOR PUBLIC ART PROGRAM



May 1998

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I) PUBLIC ART PROGRAM

- A) Program Description
- B) Policy

II) PROGRAM COMPONENTS

- A) Public Corporation for the Arts Public Art Fund
- B) On-Site Public Art Programs

III) COSTS

- A) Development Costs
- B) On-Site Public Art Budget
- C) Eligible and Ineligible Art Budget Expenditures

IV) SELECTION PROCESSES

- A) Advisory Committee for Public Art
- B) On-Site Public Art Selection Process
- C) Selection Process For Artists
- D) Eligible Locations For Public Art

V) PUBLIC ART PLANNING & DEVELOPMENT PROCESS

- A) On-Site Public Art Project Initiation
- B) On-Site Public Art Review Stages
- C) Maintenance of Public Art
- D) Ownership of Public Art

APPENDIX: EXHIBITS

- A) Map of Redevelopment Project Areas in Long Beach
- B) Building Development and Land Cost Table
- C) RDA Maintenance Covenant

I) PUBLIC ART PROGRAM

A) PROGRAM DESCRIPTION

The Redevelopment Agency of the City of Long Beach (RDA) in cooperation with the City of Long Beach and the Public Corporation for the Arts (PCA) adopted the Percent for Public Art Program for private and public developments in all redevelopment project areas including; Central Long Beach, North Long Beach, West Long Beach Industrial, Los Altos, Long Beach Polytechnic High School (Poly High), West Beach, and Downtown. Refer to the attached map (Exhibit A) of the City of Long Beach Redevelopment Project Areas.

It is the Redevelopment Agency's intent to implement the Percent for Public Art Program through partnership with the Public Corporation for the Arts, the arts council and official advisory body to the City of Long Beach. Percent for Public Art Program goals are to integrate art and art programs into the fabric of the city's redevelopment areas by means of community participation, cultural exchange between citizens, and collaboration of various professional disciplines such as artists, architects and planners and developers among others.

B) POLICY

The RDA Percent for Public Art Program requires that at least 1% of the total development costs, including construction, land and parking costs, for either public or private developments beginning at \$250,000 be allocated to finance public art programs or the Public Corporation for the Arts (PCA) Public Art Fund. This obligation is required when a contractual agreement with the RDA, such as an Owner Participation Agreement, a Disposition and Development Agreement or new construction requiring a Parking Management Agreement, is entered into. The 1% obligation excludes both low and moderate income housing and tenant improvements to the interior, non-public spaces of existing buildings.

- Projects which cost between \$250,000 and \$10 million shall deposit the 1% obligation into the PCA's Public Art Fund for general enhancement of the City's public cultural resources in redevelopment project areas.
- Projects with a total development cost in excess of \$10 million are required to allocate 1% of total development costs to a public art program (art works, cultural programming, or cultural facilities). Of this 1% obligation, 70% shall be used to fund on-site art programs and 30% shall be deposited in the PCA's Public Art Fund.
- Projects with a cost of less than \$250,000 have no public art program obligation.
- Projects which include historically designated buildings and landmarks shall participate based on total development costs as for other development projects (described above). Projects that qualify for on-site public art programs involve the restoration, rehabilitation, or preservation of exterior facades or exterior decorative elements only, and shall as a rule, be in conformance with the Secretary of the Interior's Standards for Historic Preservation Projects. The developer's plan for facade or decorative work shall be presented to and approved by the PCA's Advisory Committee for Public Art for conformance with the 1% obligation.

II) PROGRAM COMPONENTS

A) PCA PUBLIC ART FUND

The PCA Public Art Fund is a funding mechanism in which the PCA aggregates portions of the Public Art Program requirement and redistributes these funds to publicly accessible locations throughout redevelopment project areas, for general enhancement of the City's cultural resources. Redistribution of funds for arts and cultural purposes shall be considered in keeping with Public Art Program goals and with redevelopment goals in Long Beach.

A portion of the funds in the Public Art Fund will be allocated by the PCA to support public art, cultural facilities, cultural programming, conservation and maintenance of public art, artists on design/planning teams, artists' residencies, cultural events and festivals, long-range planning, documentary projects, and other programs pertaining to arts and culture in Long Beach.

The required Public Art Fund obligation shall be provided by the developer to the PCA before issuance of the first permit for the project (demolition, grading, building, for example). For projects in excess of \$10 million an initial application fee submitted by the developer to the PCA before Stage I/Conceptual Review phase shall be credited to the developer at this time. A portion of the Public Art Fund is used for administration and planning by the PCA. The PCA alone administers the Public Art Fund.

B) ON-SITE PUBLIC ART PROGRAMS

On-site public art programs (for development projects in excess of \$10 million) in redevelopment areas are reviewed by the PCA's Advisory Committee for Public Art (ACPA) and administered by the PCA's Director of Visual Art and Design. On-site public art programs may include the following three options:

- Public Art Works - as approved by the ACPA
(includes a broad interpretation of art forms and all media)
- Cultural Programming - as approved by the ACPA
(requires management agreements with arts/cultural organizations)
- Arts Spaces or Cultural Facilities - as approved by the ACPA
(requires management agreements with arts/cultural organizations)

For Public Art Works, the on-site public art program must be completed and installed before the time the Certificate of Occupancy is issued for the project. In the case of Cultural Programming or Cultural Facilities, the management agreements must be in place before issuance of the Certificate of Occupancy.

III) COSTS

A) DEVELOPMENT COSTS

Total development costs for the Percent for Public Art Public Program are estimated by calculating construction, parking and land costs. The cost of land is determined by using either the documented purchase price of the land, the present value of the base rent payments

of a long-term lease, or by using the table of land cost multipliers. Building costs are estimated by using the table of estimated building cost multipliers by Marshall and Swift Valuation Service. Refer to the attached tables to determine estimated land and building costs (Exhibit B). The RDA shall make a final determination of the estimated land, parking and construction costs and provide the information to the PCA.

B) ON-SITE PUBLIC ART BUDGET

Developers shall discuss the specifics of compliance with the Percent for Public Art Program with the Public Corporation for the Arts (PCA) prior to planning the public art program. The public art program for the development must be planned and approved by the PCA's Advisory Committee for Public Art at Stage I/Conceptual Review and, in all cases, prior to issuance of any permit for construction of the development project (demolition, grading, building, etc.)

The preliminary public art budget must be based on the estimated costs of the project and shall be determined no later than submittal of the preliminary plans to the city. The art budget shall be no less than 1% of the actual construction costs, including land costs and parking costs, and shall be increased proportionally if the actual development costs exceed the estimated costs. The developer shall be required to submit a revised proposal to the ACPA in a mutually agreed upon time frame for inclusion of additional funds, either into the on-site public art program or into the PCA's Public Art Fund.

C) ELIGIBLE AND INELIGIBLE ART BUDGET EXPENDITURES

Eligible art budget expenditures may include but are not limited to the following:

- Creation of public art works, art spaces, cultural facilities and/or cultural programming
- Artist design proposals and related documentation for the art component
- Professional fees for the artist
- Fees for assistants, materials, professional and contracted services required for the design, engineering, fabrication, and installation of the artwork
- Dealer, gallery, or consultant fees not to exceed 10% of the artist fee
- Travel expenses of the artist for site visitation, research, and presentations
- Transportation or installation of the artwork
- Preparation of the site to receive artwork beyond that which would normally be required
- Installation expenses directly related to the public art project
- Plaque to identify the public art program, per PCA plaque criteria
- Publications devoted exclusively to the public art project as approved by the ACPA
- Expenses associated with the artist selection process, including artist selection and art review panel fees and/or honoraria
- Permits or certificate fees, including specialized reports or studies directly related to the public art program
- Artist studio and operating costs, including artists expenses pertaining to project development and fabrication
- Developer's public art application fee

Ineligible art budget expenditures include but are not limited to the following:

- Directional elements such as supergraphics, signage or color coding except where these elements are integral parts of the original work of art
- Art objects which are mass produced of standard, commercial design such as playground equipment, fountains, or statuary objects
- Reproductions, by mechanical or other means of original artwork, except in cases of film, video, photography, printmaking, or other media arts
- Decorative, ornamental, or functional elements which are designed by the building architect or other design industry professionals, as opposed to an artist commissioned for this purpose
- Landscape architecture, landscape gardening and engineering except where these elements are designed by the artist and/or are an integral part of the artwork by the artist
- Fees for architectural, engineering or other design professional services not under the direct purview of the project artist
- Services or utilities necessary to operate or maintain the artwork over time (maintenance of art must be included in building maintenance costs)
- Receptions or grand openings
- Publications not pertaining specifically to the public art project

IV) SELECTION PROCESSES

A) ADVISORY COMMITTEE FOR PUBLIC ART

Public art works, cultural programming or cultural facilities originating from the Public Art Fund or through the on-site public art program obligation (for projects in excess of \$10 million) are reviewed by the PCA's Advisory Committee for Public Art

Members of the Advisory Committee for Public Art (ACPA) are appointed by the PCA Board of Directors and form a community-based group which reviews a developer's plans for conformance with the public art program. Membership of the ACPA includes two artists (performing and visual), two arts professionals (such as arts administrators, educators, conservators and critics), one member of the PCA Board of Directors, one member of the RDA Board of Directors, and one community member-at-large.

Where appropriate, the ACPA appoints a Project Committee for a specific project to assist the developer or the area community in the process of selecting a project artist and to review on-site public art program proposals. The Project Committee conveys recommendations to the ACPA for review. For on-site public art programs, once the artist is selected and the public art program concept has been approved by the ACPA, the RDA and PCA Board of Directors will be notified that Stage 1/ Conceptual Review requirements have been met.

If the public art program is disapproved, the developer may appeal to the ACPA or present an alternative proposal for consideration. All proposals for on-site art, cultural programs, or cultural facilities will be evaluated by the ACPA and the Project Committee members within the context of the Percent for Public Art Program goals and objectives as established by the PCA and the RDA.

B) ON-SITE PUBLIC ART SELECTION PROCESS

For development projects in excess of \$10 million, the developer may choose from the following methods for artist selection for on-site public art programs:

- Open Competition - the ACPA issues a call to artists to submit qualifications for consideration
- Invitational Competition - the ACPA issues a call to a limited number of artists to submit qualifications for consideration
- Direct Selection - the developer and/or developer's art consultant recommends artists for ACPA approval

Art projects, programming or cultural facility proposals will be evaluated by the ACPA, PCA staff and participating Project Committee members within the context of the Percent for Public Art Program goals and objectives as established by the PCA and the RDA. Each proposed public art program will be evaluated based, at a minimum, on the following criteria:

- Artistic merit of the design concept, evidencing creative and distinctive solutions to stated objectives
- Appropriateness to the site and the overall urban context
- Social and historic context
- Experience and ability of the artist to work collaboratively in the public realm with design professionals and others
- Long-term safety, durability, liability, and maintenance considerations
- Feasibility of the proposed project
- Environmental impact

C) SELECTION PROCESS FOR ARTISTS

The Percent for Public Art Program is intended for the participation of practicing professional artists. Artist eligibility for each project will be determined by the ACPA. Not eligible for selection are the project's architects or members of architectural, landscape, engineering, or professional design firms; members of the selection panel; members of the Advisory Committee for Public Art, the ACPA-appointed Project Committee, or members of their immediate families; or employees of the PCA, RDA, or the City of Long Beach. Students are not eligible to participate unless under the direct purview of a professional artist.

General criteria for considering artists may include, but not be limited to:

- Artistic merit of the artist's public art proposal
- Responsiveness and appropriateness to the site
- Feasibility of the proposed public art
- Experience and ability to work in the public realm
- Ability to work collaboratively with other design professionals
- Proven experience in working with the given budget, time frame, and city parameters
- Record of art training, achievement, education, and recognition

For on-site public art programs, all financial arrangements shall be negotiated between the developer and the artist, and shall be verified per the terms of a written agreement. The City

of Long Beach, the Redevelopment Agency, and the Public Corporation for the Arts shall be held harmless from any liability arising from the default of either the developer or the artist as part of the developer/artist agreement. A copy of the executed contract(s) between the developer and the artist shall be submitted to the PCA upon its execution. For Public Art Fund projects the artist shall enter into agreement for design services with the PCA and with the City of Long Beach as the project may warrant and as approved on a case-by-case basis by the ACPA and the City of Long Beach.

D) ELIGIBLE LOCATIONS FOR PUBLIC ART

Interior or exterior spaces that are accessible to the public on a regular basis for a minimum of 12 hours a day may be considered suitable locations for public art. The definition of "location" or the "accessibility" of public art within a site or building may be expanded by an artist's ability to extend the possibilities of public art, and shall require the approval of the PCA's Advisory Committee for Public Art on a case-by-case basis. The developer shall submit a narrative of the proposed type and location of the public art project, and proposed days and hours of accessibility, to the PCA at Stage I/Conceptual Review.

Upon the ACPA's approval of public art project location and accessibility to the general public, the developer shall take all steps, execute and record all reasonable documents as necessary to assure the right of public access to the public art project.

V) PUBLIC ART PLANNING & DEVELOPMENT PROCESS

A) ON-SITE PUBLIC ART PROJECT INITIATION

Proposed projects from \$10 million and over within any of the redevelopment project areas (see Exhibit A) must comply with the Percent for Public Art Program. The developer shall work with the Public Corporation for the Arts to select the project artist and to convey a preliminary art budget to the PCA by Stage I/Conceptual Review stage.

The on-site public art process consists of five stages of review with mandatory approvals by the PCA's Advisory Committee for Public Art (ACPA). The stages coincide with the Redevelopment Agency's Design Review Process, which correspond to conventional phases of architectural and artistic design practice, from design concept to final construction.

Prior to submission of Stage I/Conceptual Review requirements, the owner/developer must attend an initial briefing with the PCA and the RDA to review the PCA's Percent for Public Art Program Guidelines for Developers. This briefing stage shall help the developer to understand the public art program goals.

The steps for this phase are as follows:

- Developer briefing
- Approval of artist selection method (if applicable)
- Approval of developer's art consultant (if applicable)
- Submittal of *PCA Developer Application Form* and application fee (a \$10,000, non-refundable retainer fee is required and shall be credited to the total Public Art Fund budget requirement)

Stage I / Conceptual Review:

- Submittal of the artist(s) resume(s), biographical materials and evidence of artistic/cultural qualifications
- Brief narrative description of proposed type and location of on-site public art program
- Approval of selected artist
- Submittal of the PCA's *Public Art Project Proposal Form*
- Submittal of one copy of the Developer/Artist agreement

Stage II / Preliminary Review:

- Submittal of the artist(s) preliminary public art plan

Stage III / Final Review:

- Submittal of the artist(s) final public art plan

Stage IV / Design Check:

- Developer shall submit any revisions or modifications to the original, approved public art design concept, scope, time line, or budget. Modifications may require an additional design presentation to the ACPA. This submittal may occur any time between the completion of Final Review Stage and the end of the Design Check Stage.
- Submittal of a copy of the Artist/Developer agreement for fabrication, installation, and completion of the art program.
- Submittal of copies of permits and approvals required for completion of the art program
- Developer shall submit Public Art Fund cash obligation to the PCA prior to, but in no case later than, issuance of the first permit sought for the project.
- RDA staff reviews the construction documents for inclusion of the public art program and recommends to the Building Department issuance of a building permit.

Stage V / Construction Check:

- Submittal of the final public art budget expenditures
- Submittal of the final maintenance program and costs
- Submittal of copies of lien releases from the artist, artist subcontractors, and art consultants (if applicable)
- The Certificate of Occupancy shall be issued upon approval of the completed and installed public art program and verification provided that all contractual obligations have been met

C) MAINTENANCE OF PUBLIC ART

The maintenance of the on-site public art program will be the responsibility of the developer and its successor for the lifetime of the development project or length of time as approved by the ACPA. Maintenance responsibility for public art works commissioned through the Public Art Fund process shall be determined on a case-by-case basis by the ACPA. The RDA and the PCA will encourage artists and developers to include maintenance provisions in the artwork contract that stipulate the length of time that the artist will be responsible for repairs (typically one year).

The artists shall provide a maintenance manual with a maintenance schedule to be reviewed by the ACPA for appropriateness and shall have the right of first refusal on the repair contract for their artwork. The owner/developer shall be required to execute a maintenance covenant

with the RDA per the terms of the attached sample maintenance covenant (Exhibit C). The maintenance covenant shall be recorded against the property and transferred to subsequent owners should the property be sold. Subsequent owners of the property shall be responsible for fulfilling all maintenance requirements as stipulated in the covenant with the RDA.

D) OWNERSHIP OF PUBLIC ART

All artwork included in a specific project or redevelopment area belongs to the project owner, the commissioning body or other entity as determined through the selection and implementation process by the ACPA. However, the art work copyright belongs to the artist. The copyright remains with the artist unless specifically addressed in the artist developer agreement. If the development or improvements where the artwork is installed is either abandoned or sold by the owner/developer, the artist shall be given the first right of refusal to receive or purchase art. Photographing, altering, or replicating the artwork in any way for public consumption or use requires prior written permission from the artist. The PCA and the RDA shall have the exclusive right to use any photos, slides, models, printed materials, etc. of the artwork for non-commercial purposes. The PCA and the ACPA recommend that the developer act in accordance with Federal and State of California artist's rights legislation with regard to the ownership, maintenance, preservation, disposition, sale, copyright, and other legal considerations concerning public art.

**CITY OF LONG BEACH
REDEVELOPMENT AREAS**



TECHNOLOGY SERVICES
GIS/CMU/REDEVCON_98.APR
APRIL 20, 1999

EXHIBIT B

**Table to Determine Building Development & Land Costs
Percent for Public Art Program
Long Beach, California**

Category	Marshall & Swift Cost	Cost Multiplier	Local Multiplier	Base Cost (1)	Description
Residential					
Low Rise (1 to 3 stories)	59.23	1.03	1.18	\$70 psf	Good Class D Apartments
High Rise (3+ stories)	75.22	1.03	1.18	\$90 psf	Excellent Class D Apartments
Office					
Low Rise (1 to 3 stories)	108.89	1.01	1.16	\$130 psf	Good Class A Office Building
High Rise (3+ stories)	135.69	1.01	1.16	\$160 psf	Excellent Class A Office Building
Hotel	122.92	1.03	1.16	\$150 psf	Excellent Class A Hotel
Retail	92.14	1.06	1.16	\$110 psf	Excellent Class A Retail Store
Parking Structure					
Above Grade	8,750	1.00	1.17	\$10,000 sp	Average Class B Parking Structure
Below Grade	17,388	1.00	1.16	\$20,000 sp	Average Class B Parking Structure
Land Cost					
Low Rise - Residential				50%	of base cost
Low Rise - Office & Retail				40%	of base cost
High Rise - Residential, Office & Hotel				20%	of base cost

(1) The base building costs (excluding parking) presented above must be adjusted to reflect increases in height of over three stories, at the rate of 0.5% (1/2%) of base building costs for each story over three, up to 30 stories. Add 0.4% (4/10%) for each additional story over 30.

EXHIBIT C

Recording Requested by
and When Recorded Return to:

LONG BEACH REDEVELOPMENT AGENCY
3rd Floor, 333 W. Ocean Boulevard
Long Beach, CA 90802
Attn: Executive Director

DECLARATION OF COVENANTS

THIS DECLARATION OF COVENANTS ("Declaration") is made this _____ day of _____, 199____, by _____ (the "Owner") with reference to the following:

A. Owner is the owner of certain real property in the City of Long Beach, County of Los Angeles, State of California, (the "Property"), commonly known as _____ and described in Exhibit "A" attached hereto and incorporated herein by this reference; and

B. The Property is situated within the Redevelopment Project Area (the "Project Area") in the City, said Project Area being specifically described in the Redevelopment Plan, as amended (the "Redevelopment Plan") for the Project Area.

C. Owner and the Redevelopment Agency of the City of Long Beach, California ("Agency"), entered into that certain Disposition and Development Agreement dated _____, (hereinafter referred to as the "DDA"), pursuant to which Owner agreed to expend an amount equal to 1% of the "Total Development Costs" (as that term is defined in the DDA) to meet the "Percent for Public Art Program" requirements of the City of Long Beach.

D. A project was constructed pursuant to the "Percent for Public Art" requirement, which consists of

Project"). The locations of the Public Art Project is shown on Exhibit "B" hereto. (the "Public Art Project")

E. Pursuant to the "Percent for Public Art" requirement, Owner must satisfactorily maintain the Public Art Project.

NOW, THEREFORE, Owner, on behalf of itself, its successors and assigns, hereby covenants and agrees as follows:

Section 1. Maintenance and Repair

Owner covenants that it shall bear full responsibility for the Public Art Project. Owner covenants that it will keep and maintain the Public Art Project in good repair without expense to Agency, and that Owner is responsible to perform all repairs and replacements necessary to maintain and preserve the Public Arts Project in a decent, clean and safe condition. Owner specifically agrees to maintain the Public Art Project pursuant to the specifications set forth in Exhibit "C" hereto. Owner agrees that Agency will not be required to perform any maintenance, repairs or services, or assume any expense resulting from any performance of the covenants contained herein by Owner.

Section 2. Term

This Declaration shall remain in effect for as long as the improvements located upon the Property remain in place, or until terminated in accordance with this Declaration. Agency may terminate this Declaration at any time upon sixty (60) days written notice to Owner, and recordation of an instrument providing for the same. In the event that the improvements on the Property is demolished or destroyed, and not reconstructed or restored in substantially the same condition and configuration as existed prior to such demolition or destruction, this Declaration shall terminate. Agency and Owner, or their respective successors and assigns, may otherwise terminate the covenants provided herein by mutual consent evidenced by the execution and recordation of an instrument providing for the same.

Section 3. Indemnity of Agency

Any services or work provided by Owner pursuant to this Declaration shall be done without cost or expense to the Agency. Owner shall indemnify, defend and hold the Agency harmless from any and all loss, cost, damage or expense relating to claims for personal injury or property damage arising out of the performance of Owner's covenants hereunder.

Section 4. Declarations to be Liberally Interpreted for Purpose Intended

The rights granted herein to Owner shall be liberally construed, and shall include incidental rights not enumerated but which are necessary or convenient to the enjoyment of the rights set forth herein.

Section 5. Covenants Binding on Owner

All covenants without regard to technical classification or designation shall be binding on the Owner, its successors and assigns, and for the benefit of the Agency and its successors and

assigns, and such covenants shall run with the land in favor of the Agency and the City of Long Beach ("City") for the entire period during which such covenants shall be in force and effect, without regard to whether Owner is or remains an owner of the Property. Agency or its assign, in the event of any breach of any such covenant, shall have the right to exercise all the rights and remedies, and to maintain any action at law or suits in equity or other property proceedings to enforce the curing of such breach.

Section 6. Amendments

Only the Agency, its successors and assigns, and Owner, its successors and assigns, shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants contained in this Declaration or to subject the Declaration to additional covenants or other restrictions without the consent of any tenant, lessee, easement holder or licensee.

The covenants contained in this Declaration without regard to technical classification or designation shall not benefit or be enforceable by any person, firm, or corporation, public or private, except Agency and Owner and their respective successors and assigns.

IN WITNESS WHEREOF, Owner and Agency have caused this instrument to be executed on its behalf by its officers thereunder duly authorized, as of the date first set forth above.

By: _____
Title: _____

By: _____
Title: _____

"Owner"

REDEVELOPMENT AGENCY OF THE CITY OF LONG
BEACH, CALIFORNIA

By: _____
Susan F. Schick
Executive Director

"Agency"

The foregoing DECLARATION OF COVENANT is hereby approved
as to form this _____ day of _____, 199__.

JOHN R. CALHOUN, City Attorney

By _____
Principal Deputy